

REGULATION AND SELF-REGULATION ON ADVERTISING DIRECTED AT MINORS - Italy

DEFINITIONS

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| Child | A minor younger than 15 years. |
| Minor | prescribed by law (art. 2 of the Civil Code) |
| Civilian majority | As of 18 years (art. 2 Civil Code) |
| Civilian minority | Until 18 years |
| Legal entitlement to contract | Minors are not entitled to contract (art. 1425 Civil Code). |
| Youth protection | regarding the minors, basic jurisdiction of the juvenile court. The Italian Republic protects the childhood and the youth, favouring the institutions necessary for this purpose (art. 31 paragraph 2 of the Italian Constitution). |
| Sex offences | The following offences are sanctioned: <ul style="list-style-type: none">- Juvenile prostitution (art. 600 bis of the Criminal Code);- Juvenile pornography (art. 600 ter of the Criminal Code);- Possession of pornographic material (art. 600 quarter of the Criminal Code);- Tourism involved in the exploitation of juvenile prostitution (art. 600 quinquies of the Criminal Code);- Trading of Minors (art. 601 of the Criminal Code last paragraph);- Violent Sexual Crime (art. 519 of the Criminal Code);- Publication of obscene material (art. 528 of the Criminal Code). |
| Moral protection | The following offences are sanctioned: <ul style="list-style-type: none">- Circumvention of incapable persons (art. 643 of the Criminal Code);- Employment of under age children (art. 671 of the Criminal Code);- Administration of alcoholic drinks to under age children or the mentally unstable (art. 689 of the Criminal Code);- Administration of toxic substances and harmful foods to under age children (art. 730 of the Criminal Code). |
| Advertising | Any form of communication spread by whatsoever means in the performance of commercial, industrial, handicraft or professional activities with the purpose of promoting the sale of movable or immovable objects, the establishment and the assignment of rights and obligation on said goods or the supply of works or services (art. 2 of Law Decree 25 January 1992 no. 74) |

LEGAL PROVISIONS

GENERAL PROVISIONS

1. In general
Misleading advertising

advertising campaigns (art. 6 of Law 25 January 1992 no. 74).

2. Through media

TELEVISION

Principles

are contained in IAP Code (see infra).

Art. 10 TVWF

Art. 11 TVWF: insertion of advertising

Directive, pursuant to which "news and current affairs programmes, documentaries, religious programmes and children's programmes, when their programmed duration is less than 30 minutes shall not be interrupted by advertisements

shall apply to such programmes. In particular, the transmission of audiovisual works such as feature films and films made for television (excluding series, serials, light entertainment programmes and documentaries), provided their programmed duration is more than 45 minutes, may be interrupted once for each complete period of 45 minutes. A further interruption is allowed if their programmed duration is at least 20 minutes longer than two or more complete periods of 45 minutes. Where programmes, other than those consisting of autonomous parts, or sports programmes and similarly structured events, are interrupted by advertisements, a period of at least 20 minutes should elapse between each successive advertising break within the programme

It is prohibited to insert advertisements in cartoons.

Advertising and teleshopping shall not be inserted in any broadcast of a religious service. News and current affairs programmes, documentaries, religious programmes and children's programmes, when their scheduled duration is less than 30 minutes, shall not be interrupted by advertising or by teleshopping

Art. 12 TVWF: human dignity

security or the environment and must not cause moral or physical detriment to minors.

Art. 13 TVWF: tobacco

whose main activities consist of the production or sales of such products in all cases in which such use is suitable, for forms, modalities and means utilised, to promote the advertising of same products

Art. 14 TVWF: medicinal products

Art. 15 TVWF: alcohol

Pursuant to article 2 of the Ministerial Decree 30 November 1991 no 425, the television advertising of alcoholic beverages shall not:

a) be aimed specifically at minors or, in particular, depict minors consuming these beverages;

- b) link the consumption of alcohol to enhanced physical performance or to driving;
- c) create the impression that the consumption of alcohol contributes towards social or sexual success;
- d) claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- e) encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
- f) place emphasis on high alcoholic content as being a positive quality of beverages. B82

Special protection of minors

Art. 16 TVWF: advertising and minors:

television advertising, in order to prevent any moral or physical detriment to minors shall not:

- (a) directly exhort minors to buy a product or a service by exploiting their inexperience or credulity;
- (b) directly encourage minors to persuade their parents or others to purchase the goods or services being advertised;
- (c) exploit the special trust minors place in parents, teachers or other persons;
- (d) unreasonably show minors in dangerous situations.

Art. 22 TVWF: protection of minors and public order

The transmission of programmes which can be psychologically or morally harmful to minors, which contain scenes of violence or pornography or which encourage discrimination of race, sex, religion or nationality are prohibited

Films which are forbidden to children under age 14 cannot be broadcast either fully or partially between 7:00 a.m. and 10:30 p.m.

Sponsoring (Art. 17 TVWF)

Pursuant to article 4 of the Ministerial Decree 9 December 1993 no. 581, the sponsorship of television programmes can be manifested exclusively during the programme announcements and/or programme more association, different from the licensee and excluding any type of advertising slogan or presentation of the product or services of the same.

programme announcements and/or programme listings (not lasting more than 8 seconds) may be broadcast by the licensee ("promos"), including only the quotation of the name and/or logo of the sponsor and licensee on a national level.

If the sponsored programme has a duration of less than 40 minutes, the appearance of the name or logo of the sponsor during the programme is allowed only once and not lasting more than 5 seconds. The duration of the programme is determined including the opening and closing titles and any eventual intervals or advertising interruptions or any other type of interruption including technical problems.

the sponsor, but on the condition that it is done quickly, without using publicity slogans and with discretion only at the moment of delivery.

Teleshopping (Art. 19 TVWF)

be distinguishable from other programmes in an area removed from every other editorial content. These transmissions must be preceded and followed by a suitable opening and closing (e.g. jingles, videos) which allow the public a clear perception of the type of programme.

Direct sales transmissions can contain commercial breaks as long as these breaks are clearly, visually or acoustically, distinguishable from the transmission itself.

service.

Direct sales transmissions must have a duration of at least 3 minutes including opening and closing.

Ban on advertising susceptible to cause physical or moral detriment to minors (art. 8 paragraph 1 of law no. 223 of 6 August 1990).

It is prohibited to insert advertisements in cartoons (art. 8 paragraph 1 of Law 6 August 1990 no. 223).

RADIO

Principles

Radio advertisements must not offend a person's dignity nor encourage discrimination of race, sex, nationality, religion or ideals; must not encourage behaviour which may be harmful to a person's health, security or the environment and must not cause moral or physical detriment to minors. It is prohibited to insert advertisements in cartoons (art. 8 paragraph 1 of Law 6 August 1990 no. 223).

RADIO SPONSORSHIP

products or services.

Unlike the limit laid out in the above article 4 for television programme announcements, radio announcements are not subject to a numbered limit per programme.

the sponsor, but on the condition that it is done without using publicity slogans. The prizes (products or services) are not subject to proof of purchase by the sponsor or third party.

PRESS

Special protection for minors

Ban on:

a)

committing suicide; and

b) newspapers and magazines aimed at children, in which the description or illustrations are based on the police force, which systematically or repeatedly favour violent instincts and social misconduct (art. 14 of Law 8 February 1948 no. 47).

POSTERS

CINEMA

Ban on broadcasting films for which *nulla osta* for public viewing or representation have been denied or which are prohibited to children under 18 (art. 15 paragraphs 11 and 12 of Law 6 August 1990 no. 223).

INTERNET

of the minors' sensibility imposes particular prudence in the disclosure to the public of potentially dangerous contents (art. 4 c) of the project of the Self-Regulation Code for internet services).

SPECIFIC LEGAL PROVISIONS

2.1 ALCOHOL

2.1.1 General rules

2.1.2 Advertising

2.1.2.1 In general

2.1.2.2 Per media

Television

Pursuant to article 2 of the Ministerial Decree 30 November 1991 no 425, the television advertising of alcoholic beverages shall not:

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- c) create the impression that the consumption of alcohol contributes towards social or sexual success;
- d) claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- e) encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
- f) place emphasis on high alcoholic content as being a positive quality of beverages.B82

Radio

Others

2.2 TOBACCO

2.2.1 General Rules

2.2.2 Advertising

2.2.2.1 In general

2.2.2.2 Per media

Television

Others

the Ministerial Decree 30 November 1991 no 425).

PROPOSALS OF LAW

A legislative proposal which inter alia bans advertising during children's programmes is on the agenda of the senate.

The Senates special committee on Infancy Affairs is currently holding an inquiry into "minors & TV" and supports a ban on advertising to children

self-regulation codes

SELF-REGULATION

GENERAL RULES

The EU Directive on misleading advertising is implemented by law of 1992, which expressly recognises the role of a self-regulatory system.

The Advertising Self-Regulation Code is based on the ICC Code; in some ways the Italian Code it is stricter than the ICC one.

Advertising Self-Regulation Code: Ban on advertisements containing anything, which could cause mental, physical or morale damage to children and adolescents, and above all which could abuse their natural beliefs or lack of experience or of their sense of fairness (article 11)

Advertisements aimed at children and adolescents must not create:

- violation of normal generally accepted social behaviour;
- actions or exposure to dangerous situations;
- a feeling of inferiority if not in possession of the product advertised, or make the parents feel that they are not provided properly for the child;
- a situation of making other people buy the product which is advertised.

Employment of children and adolescents in advertising campaigns must avoid abusing the natural sentiments of adults for youngsters.

TV advertising is regulated by both public and private regulatory bodies. Messages must be in accordance with the Advertising Self-Regulation Code and respect the internal rules of the Code on TV and minors. The Radio & Television Federation has also a code of practice.

SPECIAL PROVISIONS & CODES OF CONDUCT

ALCOHOL

measurement, correctness and responsibility.

In particular, advertising must refrain from:

- a) encouraging excessive and uncontrolled usage, which is therefore damaging, of alcoholic drinks;
- b) demonstrating situations of addiction to the product and, in general, the dependency of alcohol;
- c) targeting, also indirectly, under aged children;
- d) associating the use of alcohol with the driving of a vehicle;
- e) persuading the public that the use of alcoholic drinks contributes to mental awareness and physical prowess and that ceasing to use the product creates a mental, physical and social inferiority;
- f) persuading the public not to take care in the way the product is consumed, which is necessary in relation to the personal characteristics of the consumer, depending on the individual product;
- g) using the percentage of alcohol present in the drink as the principle advertising indication of the product.

GAME AND TOYS FOR CHILDREN

Pursuant to article 28 bis of the Advertising Self-Regulation Code, advertising relating to games and toys for children must not be misleading:

- regarding the size and functions of the advertised product;
- regarding the level of capability needed to use the product;
- regarding cost, especially if the product requires the purchase of supplementary products for proper use.

In any case, the commercial must not minimise the cost of the product or lead consumers to believe that its purchase is compatible with any family budget.

DRUGS

Art. 25 of the code on Medical Product & Curative Treatments also refers to children.

SPECIFIC TECHNIQUES (LEGISLATION AND SELF-REGULATION)

DIRECT MARKETING

SALES PROMOTION

Pursuant to article 13 of the Ministerial Decree 9 December 1993 no. 581, sales promotion cannot be introduced in the television news, newsletters and consulting programmes aimed to consumers and like any other form of advertising, they must be recognisable as such and clearly distinguishable from the rest of the programme by means of displaying in writing "promotional message" for its entire duration.

PUBLI-REPORTAGE

COMMERCIAL ACTIVITIES IN SCHOOLS

Distribution of advertising material for teaching purposes is not considered as advertising when it has been requested by the school and is used under the supervision of teachers.

REGLES PAR SECTEUR